

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs October 24, 2006

STATE OF TENNESSEE v. JAMES GENO TEMPLEMAN

**Direct Appeal from the Circuit Court for Sevier County
No. 10457 Rex Henry Ogle, Judge**

No. E2005-02754-CCA-R3-CD - Filed January 26, 2007

The defendant, James Geno Templeman, appeals the sentence of the Circuit Court for Sevier County in which his driver's license was suspended for a period of two years as a result of his conviction for violating the implied consent law. It is undisputed that the defendant had a prior driving under the influence (D.U.I.) conviction which was used by the trial court in sentencing the defendant. On appeal, the defendant urges this court to impose the ten-year limitation contained in the D.U.I. statute to the implied consent statute to bar the use of any prior D.U.I. conviction more than ten years old. The State argues that the plain language of the statute contains no such limitation on the use of prior D.U.I. offenses, and we agree. We affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which JOSEPH M. TIPTON, P.J., and JAMES CURWOOD WITT, JR., J., joined.

Edward Cantrell Miller, District Public Defender, and Amber D. Haas, Assistant Public Defender, for the appellant, James Geno Templeman.

Robert E. Cooper, Jr., Attorney General and Reporter; David E. Coenen, Assistant Attorney General; Al C. Schmutzer, Jr., District Attorney General; and John D. Sellers, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Facts and Procedural History

This appeal concerns only whether the trial court properly suspended the defendant's driver's license for a period of two years. Concluding that the implied consent statute, T.C.A. § 55-10-406(a)(4)(ii) (2005), contains no time limitations that bar the use of a prior D.U.I. conviction, the judgments of the trial court are affirmed.

The defendant, James Geno Templeman, was pulled over under suspicion of driving under the influence in February 2004. He refused the offered test to determine his blood-alcohol content. Later, he was indicted for D.U.I., violation of the implied consent law, and driving on a suspended license. Subsequently, the defendant pled guilty to violation of the implied consent law and driving on a suspended license. The D.U.I. charge was dismissed. The defendant was placed on probation for six months. The trial court found that the defendant had a previous conviction for D.U.I. at the time of those offenses and ordered his driver's license be suspended for two years. It was undisputed that the defendant was convicted of D.U.I. in Knox County on July 25, 1990.

Analysis

The defendant argues that the D.U.I. statute, T.C.A. § 55-10-403(a)(3), makes it plain that a conviction more than ten years prior cannot be used to enhance a subsequent D.U.I. The defendant urges this court to apply the ten-year limitation to the violation of the implied consent law. The State counters by arguing that the plain, unambiguous language of the implied consent statute, T.C.A. § 55-10-406(a)(4)(A)(ii), contains no time limitation for prior D.U.I. convictions. We agree with the State. Therefore, the trial court was correct in revoking the defendant's driver's licence for two years. Accordingly, the judgments of the trial court are affirmed.

Conclusion

Based on the foregoing and the record as a whole, we affirm the judgments of the trial court.

JOHN EVERETT WILLIAMS, JUDGE